

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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| SCOTT J. BINSACK, SR., | : | CIVIL NO: 4:10-CV-00535 |
| Plaintiff | : | |
| | : | (Judge Conner) |
| v. | : | |
| | : | (Magistrate Judge Smyser) |
| | : | |
| LACKAWANNA COUNTY PRISON, | : | |
| <i>et al.</i> , | : | |
| | : | |
| Defendants | : | |

REPORT AND RECOMMENDATION

The plaintiff, a prisoner proceeding *pro se*, commenced this action on March 9, 2010. On that date, the plaintiff filed a document entitled "Section 1983 Civil Rights Complaint." That document, however, is not a complaint. It is merely a title page to a complaint.

By an Order dated April 2, 2010, we ordered the plaintiff to file a complaint. On April 13, 2010, the plaintiff filed a complaint. By an Order dated May 3, 2010, we ordered that the complaint be served on the defendants.

The complaint names as defendants: the Lackawanna County Prison; the Lackawanna County Commissioners (identified as Corey O'Brian, Michael Washo and A.J. Munchak); the Lackawanna County Prison Board; Warden Donate; Deputy Warden Betti; Deputy Warden Prichard; Captain Chiarelli; Lieutenant Carroll; Corrections Officer Dominick; Corrections Officer Magoosi; Corrections Officer Rapford; Corrections Officer Frank Doe; Correctional Care, Inc.; Dr. Zaloga; and John and Jane Doe Medical Providers, Nurses and Doctors.

The complaint is lengthy - it consists of 80 pages, 223 paragraphs, and 40 footnotes. The plaintiff makes many allegations in the complaint including that he has numerous medical conditions for which he was not provided medical treatment, that certain defendants labeled him as a snitch and set him up to be assaulted, that he was threatened, assaulted and extorted by other inmates, that he was subsequently transferred out of the Lackawanna County Prison but that he was transferred back in retaliation for sending the defendants a notice of his intent to file a lawsuit and in an attempt to deter him from filing such a lawsuit, and that he was denied access to the courts.

The complaint contains 42 U.S.C. § 1983 claims based on purported violations of the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution. The complaint also contains numerous claims based on purported violations of the Constitution of Pennsylvania as well as numerous other state law claims.

As relief, the plaintiff seeks declaratory and injunctive relief as well as compensatory and punitive damages.

On April 14, 2010, the plaintiff filed a motion for the appointment of counsel and a brief in support of that motion. By an Order dated May 13, 2010, we conditionally granted the plaintiff's motion for the appointment of counsel. We referred the case to Stephen M. Greecher, Jr., Esquire, the *pro bono* chair of the Middle District Chapter of the Federal Bar Association. Mr. Greecher subsequently informed the undersigned that he could not find an attorney willing to represent the plaintiff in this case. By an Order dated December 21, 2010, the order conditionally granting the motion

for the appointment of counsel was vacated and the plaintiff's motion for the appointment of counsel was denied.

By a Report and Recommendation filed on October 14, 2010, we addressed various motions filed by the defendants and concluded *inter alia* that the complaint does not meet the pleading requirements of Fed.R.Civ.P. 8(a). We recommended that the plaintiff be ordered to file an amended complaint that complies with Fed.R.Civ.P. 8(a) and provides a more definite statement of his claims.

By an Order dated December 1, 2010, Judge Conner adopted the Report and Recommendation. Judge Conner ordered the plaintiff to file, on or before December 23, 2010, an amended complaint that complies with Fed.R.Civ.P. 8(a) and that provides a more definite statement of his claims. Judge Conner warned the plaintiff that failure to file such an amended complaint may result in the dismissal of this action.

The plaintiff has not filed an amended complaint.

Since the complaint does not comply with Fed.R.Civ.P. 8(a) and the plaintiff has failed to file an amended complaint as ordered, it is recommended that the complaint be dismissed and that the case file be closed.

/s/ J. Andrew Smyser

J. Andrew Smyser
Magistrate Judge

Dated: January 14, 2011.